

Certification of Consistency

Certification ID: C20185

Step 1 - Agency Profile

A. GOVERNMENT AGENCY:

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State Agency

☐

Local Agency

Government Agency: California Department of Water Resources

Primary Contact: Katherine Marquez

Address: 3500 Industrial Blvd., Room 117

City, State, Zip: West Sacramento, CA 95691

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E-mail Address: cwf_dp_consistency@water.ca.gov

B. GOVERNMENT AGENCY ROLE IN COVERED ACTION:

☒

Will Carry Out

☒

Will Approve

☐

Will Fund

Step 2 - Covered Action Profile

IT IS RECOMMENDED THAT YOU ENGAGE IN EARLY CONSULTATION WITH DSC STAFF AND/OR COMPLETE THE COVERED ACTION CHECKLIST TO DETERMINE IF THE PLAN, PROGRAM OR PROJECT IS CONSIDERED A COVERED ACTION AND TO IDENTIFY RELEVANT REGULATORY POLICIES

A. COVERED ACTION PROFILE: ☐ Plan ☐ Program ☒ Project

Title: California WaterFix

B. PROPONENT CARRYING OUT COVERED ACTION (If different than State or Local Agency):

Proponent Name: California Department of Water Resources

Address: 3500 Industrial Blvd., Room 117

City, State, Zip: West Sacramento, CA 95691

C. **AT LEAST 10 DAYS PRIOR TO THE SUBMISSION OF A CERTIFICATION OF CONSISTENCY TO THE COUNCIL**, agencies whose actions are not subject to open meeting laws (Bagley-Keene Open Meeting Act [Gov. Code sec 11120 et seq.] or the Brown Act [Gov. Code sec 54950 et seq.]) with regard to its certification, must post for public review and comment, their draft certification on their website and in their office, and mail to all persons requesting notice.

Any state or local public agency that is subject to open meeting laws with regard to its certification is also encouraged to take those actions.

(Note: Any public comments received during this process must be included in the record submitted to the Council in case of an appeal.)

If applicable, did you comply with this requirement? ☒ YES ☐ NO ☐ N/A

[Notice of Intent 7 17 18.pdf](#)

D. COVERED ACTION SUMMARY: (Project Description from approved CEQA document may be used here)

The Department of Water Resources' (DWR) fundamental purpose in proposing the California WaterFix is to make physical and operational improvements to the State Water Project (SWP) system in the Delta necessary to restore and protect ecosystem health, water supplies of the SWP and Central Valley Project (CVP) south of the Delta, and water quality within a stable regulatory framework, consistent with statutory and contractual obligations. The fundamental purpose is informed by past efforts taken within the Delta and the watersheds of the Sacramento and San Joaquin Rivers, including those undertaken through the CALFED Bay-Delta Program and Delta Risk Management Strategy.

Attached is a summarized project description of California WaterFix from the Final Environmental Impact Report/Environmental Impact Statement (Final EIR/EIS) describing the conveyance facilities, operations and Environmental Commitments. For a detailed version see Final EIR/EIS, Chapter 3, Description of Alternatives.

As typical for construction projects of this size, engineering refinements have developed through the planning process. The California WaterFix Project Refinements document of this July 2018 certification of consistency describes these refinements, as documented in the California WaterFix Addendum to the Final Environmental Impact Report (EIR) and in the California WaterFix Draft Supplemental EIR/Environmental Impact Statement (EIS). The California WaterFix Project Refinements document goes on to describe how the refinements in each CEQA document do not conflict with the conclusions nor do they significantly change the detailed findings for each of the Delta Plan Policies in the Delta Plan Certification of Consistency for the California WaterFix as supported, in part, by the 2016 Final EIR/EIS and 2017 certified Final EIR.

The WaterFix certification of consistency is based on DWR's interpretation of the Delta Plan policies, which was developed with support from DSC staff through the early consultation process. If it is determined by the DSC Delta Council that a Delta Plan policy DWR finds to be not applicable to California WaterFix, in fact does apply to portions of California WaterFix, and/or full consistency with the policy as interpreted by the Council is not feasible, California WaterFix should still be found to be consistent with the Delta Plan pursuant to subdivision (b)(1) of section 5002 of title 23 of the California Code of Regulations. That provision states that, where full consistency with all relevant regulatory policies may not be feasible, an agency proposing a covered action may nevertheless certify that the action is consistent with the overall Delta Plan by certifying that the action is consistent with the coequal goals themselves. As demonstrated in the Final EIR/EIS and described in California WaterFix and the Coequal Goals document, California WaterFix is consistent with the coequal goals themselves.

[DWR DP Consistency CoverLetter_7_27_18.pdf](#), [Final California WaterFix and the Coequal Goals_7_27_18.pdf](#), [Final California WaterFix Project Refinements_7_27_18.pdf](#), [Final Project Description_7_27_18.pdf](#)

E. STATUS IN THE CEQA PROCESS: NOD has been filed

F. STATE CLEARINGHOUSE NUMBER: 2008032062
(if applicable)

G. COVERED ACTION ESTIMATED TIME LINE:

ANTICIPATED START DATE: (If available) 10/24/2018

ANTICIPATED END DATE: (If available) 8/30/2038

H. COVERED ACTION TOTAL ESTIMATED PROJECT COST: \$16,731,000,000.00

I. IF A CERTIFICATION OF CONSISTENCY FOR THIS COVERED ACTION WAS PREVIOUSLY SUBMITTED, LIST DSC REFERENCE NUMBER ASSIGNED TO THAT CERTIFICATION FORM:

J. SUPPORTING DOCUMENTS: [View Record on Web](#)

Step 3 - Consistency with the Delta Plan

DELTA PLAN CHAPTER 2

G P1 / 23 CCR SECTION 5002 – Detailed Findings to Establish Consistency with the Delta Plan.

In General: (23 CCR SECTION 5002 (a), (b), (1)) This regulatory policy specifies what must be addressed in a certification of consistency filed by a State or local public agency with regard to any covered action.

This regulatory policy only applies after a “proposed action” has been determined by a State or local public agency to be a covered action because it is covered by one or more of the regulatory policies listed under Delta Plan Chapters 3, 4, 5, and 7 of this form. Inconsistency with this policy may be the basis for an appeal.

Covered actions, in order to be consistent with the Delta Plan, must be consistent with this regulatory policy and with each of the regulatory policies listed under Delta Plan Chapters 3, 4, 5 and 7 of this form implicated by the covered action. The Delta Stewardship Council acknowledges that in some cases, based upon the nature of the covered action, full consistency with all relevant regulatory policies may not be feasible. In those cases, the agency that files the certification of consistency may nevertheless determine that the covered action is consistent with the Delta Plan because, on whole, that action is consistent with the coequal goals. That determination must include a clear identification of areas where consistency with relevant regulatory policies is not feasible, an explanation of the reasons why it is not feasible, and an explanation of how the covered action nevertheless, on whole, is consistent with the coequal goals. That determination is subject to review by the Delta Stewardship Council on appeal;

Specific requirements of this regulatory policy:

Mitigation Measures (23 CCR SECTION 5002 (b), (2))

- a. The covered action is not exempt from CEQA, and includes applicable feasible mitigation measures identified in the Delta Plan’s Program Environmental Impact Report, (unless the measure(s) are within the exclusive jurisdiction of an agency other than the agency that files the certification of consistency), or substitute mitigation measures that the agency that files the certification of consistency finds are equally or more effective.

Is the covered action consistent with this portion of the regulatory policy?

☒ YES ☐ NO ☐ N/A

Answer Justification: California WaterFix is consistent with Delta Plan Policy G P1 (b)(2) (23 CCR Section 5002), Mitigation Measures. All of the mitigation measures proposed in the California WaterFix Final EIR/EIS have been adopted and incorporated into the enforceable Mitigation Monitoring and Reporting Program (MMRP) for the project. (See Public Resources Code, § 21081.6, subds. (a)(1) and (b).) So too have both the environmental commitments (ECs), and avoidance and minimization measures (AMMs) set forth in Appendix 3B to the Final EIR/EIS. The measures in the MMRP and Appendix 3B are equal to, if not more effective than the applicable measures identified in the Delta Plan PEIR at reducing impacts to the environment from the construction and operation of California WaterFix. See attached for detailed findings including the MMRP Crosswalk (GP 1 (b)(2) Attachment 1) for a more detailed comparison of California WaterFix mitigation and Delta Plan mitigation measures. [Final_G P1 \(b\)\(2\) \(23 CCR Section 5002\) Mitigation Measures 7_27_18.pdf](#)

Best Available Science (23 CCR SECTION 5002 (b), (3))

- b. The covered action documents use of best available science as relevant to the purpose and nature of the project.

Is the covered action consistent with this portion of the regulatory policy? [Appendix 1A](#) is referenced in this regulatory policy.

☒ YES ☐ NO ☐ N/A

Answer Justification:

California WaterFix is consistent with Delta Plan Policy G P1 (b)(3), Best Available Science. Development of the project and analysis of its environmental impacts utilized a wide range of relevant data, literature and tools including some specific to the Sacramento San Joaquin Delta. The Department used the best available scientific information to produce analyses of the effects of the project, drawing on a number of scientific and engineering disciplines that include geology, hydrology, biology, ecology, chemistry, engineering, and climatology. The data, models and literature are publicly available and the methodologies used to apply these tools and information are described in the analyses. The data, models, literature, and analyses have been subjected to review either as part of the customary practices of scientific publication or as part of legal and regulatory processes. The impact analyses produced for the project were themselves subject to review and comment by the general public (e.g., the California Environmental Quality Act (CEQA)), experts in relevant scientific disciplines (e.g., the Delta Independent Science Board (Delta ISB)), and expert staff from regulatory agencies having jurisdiction over one or more aspects of the project or its permitting (e.g., National Marine Fisheries Service (NMFS), U.S. Fish and Wildlife Service (USFWS), California Department of Fish & Wildlife (CDFW), and the United States Army Corps of Engineers (USACE). The attached discussion documents the project's consistency with each of the Best Available Science Policy's six criteria (see Delta Plan G P1, Appendix 1A, Best Available Science, Table 1A-1). For each of the criteria the discussion provides: 1) direct language from Table 1A-1; 2) a determination for California WaterFix's consistency with the criteria; and 3) documentation of how the criteria was applied for the project. See attached for detailed findings. [Final_G P1 \(b\)\(3\) \(23 CCR Sec 5002\) Best Available Science_7_27_18.pdf](#)

Adaptive Management (23 CCR SECTION 5002 (b), (4))

- c. The covered action involves ecosystem restoration or water management, and includes adequate provisions, appropriate to its scope, to assure continued implementation of adaptive management

Is the covered action consistent with this portion of the regulatory policy? [Appendix 1B](#) is referenced in this regulatory policy.

☒ YES

☐ NO

☐ N/A

Answer Justification:

California WaterFix is consistent with Delta Plan Policy G P1 (b)(4), Adaptive Management. The attached Project-wide Adaptive Management Program describes the approach to be taken, consistent with the adaptive management framework in Appendix 1B of the Delta Plan, and documents access to adequate resources and delineated authority by the entity responsible for the implementation of the proposed adaptive management process. [Final_G P1 \(b\)\(4\) \(23 CCR Section 5002\) Adaptive Management_7_27_18.pdf](#)

DELTA PLAN CHAPTER 3

[WR P1 / 23 CCR SECTION 5003](#) - Reduce Reliance on the Delta through Improved Regional Water Self-Reliance

Is the covered action consistent with this regulatory policy?

☒ YES

☐ NO

☐ N/A

Delta Plan Policy WR P1, Reduce Reliance on the Delta through Improved Regional Water Self-Reliance can be interpreted as applying only to a new water export, water transfer, or in-Delta water use projects that qualify as covered actions and not to a change in a point of diversion with no expansion of the water right associated with the total existing export. Interpreted this way, this policy does not apply to California WaterFix because California WaterFix does not propose any new exports associated with existing water rights. Instead, it is a project to modernize the State Water Project (SWP) by adding three new state-of-the-art fish-screened intakes and related conveyance and pumping facilities to move water to the existing SWP facilities in the south Delta. DWR is not applying for any new water rights, but is seeking an amendment to its existing water rights to add the three new points of diversion. As explained in more detail in the Project Description portion of the Certification of Consistency, and in the detailed findings attached, California WaterFix is designed to improve the reliability of State Water Project (SWP) and Central Valley Project (CVP) water supplies, with the ultimate aim of enabling the SWP and CVP to more reliably deliver up to full water contract amounts as hydrology permits, consistent with applicable regulatory and contractual requirements. However, even if WR P1 was interpreted to apply to any new point of diversion, even with no expansion of existing water rights, and therefore did apply to California WaterFix, California WaterFix is consistent with WR P1 for two independent reasons. Delta Plan Policy WR P1(a) states that water shall not be exported from, transferred through, or used in the Delta if all three conditions as provided in subdivisions (a)(1), (a)(2), and (a)(3) apply. In other words, if one or more of

Answer Justification:

these three conditions are not applicable, the project is consistent with WR P1 because the prohibition in subdivision (a) would not apply. First, with respect to WR P1 subdivision (a)(2), the need for California WaterFix was not significantly caused by one or more water suppliers that will receive water from the project failing to adequately reduce reliance on Delta exports to meet California's future water supply needs. Second, with respect to WR P1 subdivision (a)(1), water suppliers in regions of the state served with water conveyed through California WaterFix have taken significant steps to reduce reliance by improving regional self-reliance. Thus, for each of those independent reasons, the prohibition on exports in WR P1 subdivision (a) is not triggered. In any event, as demonstrated in the coequal goals discussion of the Certification of Consistency, California WaterFix is consistent with the coequal goals themselves because it furthers the coequal goals in a manner that preserves the Delta as an evolving place. First, the need for California WaterFix was caused by factors that pre-date and exist independently of the reduced reliance policy. The need arose and was recognized decades ago as sensitive fish species populations declined in the Delta, which led to increasingly stringent environmental regulations on the coordinated operations of the SWP and CVP pumps in the south Delta to protect those species, which, in turn, reduced the reliability of SWP and CVP supplies. In addition, the need arose in view of well recognized threats to reliable SWP/CVP exports, including seismic risks to Delta levees on subsiding lands, and the middle- and long-term threat of salinity intrusion from sea level rise. Both the need and planning process for the California WaterFix and the predecessor Bay Delta Conservation Plan (BDCP), which included extensive analysis of alternatives for new Delta diversion and conveyance infrastructure, predate both the Sacramento-San Joaquin Delta Reform Act of 2009, which established the statewide policy of reduced reliance in Water Code section 85021, and the Delta Plan Reduced Reliance policy adopted in 2013. Thus, the need for California WaterFix was not significantly caused by the failure of one or more water suppliers to reduce reliance on water exported from the Delta. Second, urban and agricultural water suppliers that will receive water from California WaterFix have made and continue to make significant strides to reduce reliance on water conveyed across and diverted from the Delta to meet California's future water supply needs. To the extent feasible, DWR has quantified the reduced reliance and investments in water use efficiency, demand management, and local supply programs that demonstrate progress toward legislatively mandated conservation targets and improved regional self-reliance, consistent with the reduced reliance policy in Water Code section 85021, and the Delta Plan policy WR P1, codified at section 5003 of title 23 of the California Code of Regulations. Because agricultural water suppliers are not required to quantify planned local water supply projects or water use efficiency in their Agricultural Water Management Plans, DWR has included a qualitative analysis that shows reduced reliance through improved regional self-reliance for water contractors that are agricultural water suppliers. As demonstrated in Chapter 5, Water Supply in the Final EIR, total long-term average annual Delta exports under Alternative 4A (California WaterFix) would remain about the same or decrease slightly as compared to exports under existing conditions, reflecting both changes in operations due to the north Delta diversion, less negative Old and Middle River (OMR) flows, implementation of Fall X2 and modified spring outflow, as well as the anticipated effects of sea level rise and climate change. Thus, there is no significant change in amount of water exported that could cause a significant adverse environmental impact in the Delta. In addition, on balance, the new dual conveyance system in California WaterFix is environmentally beneficial to sensitive native aquatic species by virtue of restoring more natural flow patterns and reducing entrainment and entrainment-related predation in the south Delta, as demonstrated in Chapter 11, Fish and Aquatic Resources in the Final EIR. Thus, the export of water itself does not have an adverse environmental impact on the Delta. Nevertheless, DWR acknowledges that operation of the new north Delta points of diversion, even with state-of-the-art fish screens, was determined to have a significant and unavoidable impact on the earliest life stages of American shad and striped bass, two nonnative species introduced decades ago for sportfishing. Finally, as demonstrated in the coequal goals discussion of the Certification of Consistency, California WaterFix is consistent with the coequal goals themselves, and is therefore consistent with Delta Plan policy codified at subdivision (b)(1) of section 5002 of title 23 of the California Code of Regulations, which authorizes agencies proposing covered actions to certify consistency with the coequal goals if it is infeasible to certify full consistency with one or more specific policies implicated by the action. See attached for detailed findings. [Final WR P1 \(23 CCR Section 5003\) Reduce Reliance on the Delta 7 27 18.pdf](#)

[WR P2 / 23 CCR SECTION 5004](#) - Transparency in Water Contracting

Is the covered action consistent with this regulatory policy? [Appendix 2A](#) and [Appendix 2B](#) are referenced in this regulatory policy.

☐ YES

☐ NO

☒ N/A

Answer Justification:

Delta Plan Policy WR P2 (23 CCR Section 5004), Transparency in Water Contracting is not applicable to California WaterFix because contract amendments are a separate process outside the scope of the California WaterFix (the covered action). However, it is required that DWR nonetheless follow Guidelines for Review of Proposed Permanent Transfers of State Water Project (SWP) Annual Table A Amount (notice 03-09) and Principles Regarding Public Participation Process in SWP Contract Negotiations (notice 03-10) as required by the Settlement Agreement, dated May 5, 2003, referenced in Appendix 2A of the Delta Plan. See attached for detailed findings. [Final WR P2 \(23 CCR Section 5004\) Transparency in Water Contracting 7 27 18.pdf](#)

DELTA PLAN CHAPTER 4

Conservation Measure: (23 CCR SECTION 5002 (c))

A conservation measure proposed to be implemented pursuant to a natural community conservation plan or a habitat conservation plan that was:

(1) Developed by a local government in the Delta; and

(2) Approved and permitted by the California Department of Fish and Wildlife prior to May 16, 2013

is deemed to be consistent with the regulatory policies listed under Delta Plan Chapter 4 of this form (i.e. sections 5005 through 5009) if the certification of consistency filed with regard to the conservation measure includes a statement confirming the nature of the conservation measure from the California Department of Fish and Wildlife.

Is a statement confirming the nature of the conservation measure from the California Department of Fish and Wildlife available?

☐ YES

☐ NO

☒ N/A

Answer Justification:

Delta Plan Policy GP P1 (c) (23 CCR Section 5002), Conservation Measure, is not applicable to California WaterFix because the California WaterFix does not include a conservation measure(s) proposed to be implemented pursuant to a natural community conservation plan or a habitat conservation plan. See attached for detailed findings. [Final G P1 \(c\) \(23 CCR Section 5002\) Conservation Measure 7 27 18.pdf](#)

[ER P1 / 23 CCR SECTION 5005](#) - Delta Flow Objectives

Is the covered action consistent with this regulatory policy?

☒ YES

☐ NO

☐ N/A

Answer Justification:

California WaterFix is consistent with Delta Plan Policy ER P1 (23 CCR Section 5005), Delta Flow Objectives. The State Water Project (SWP) and the Department of Water Resources (DWR) has a proven record complying with the State Water Resources Control Board's (SWRCB) water rights decision D-1641 flow objectives. California WaterFix will be operated to continue SWP compliance with D-1641 flow objectives. The State Water Resources Control Board is in the process of developing updates to the D-1641 flow objectives. When the Bay Delta Water Quality Control Plan (WQCP) is revised, the SWP and California WaterFix is legally obligated to comply with any revised flow objectives properly assigned to it and the SWP will be operated to do so. The attached detailed findings documents DWR's historical compliance with Delta Flow Objectives and California WaterFix modeling results indicating continued compliance with D-1641 and therefore documents consistency with ER P1. See attached for detailed findings. [Final ER P1 \(23 CCR Section 5005\) Delta Flow Objectives 7 27 18.pdf](#)

[ER P2 / 23 CCR SECTION 5006](#) - Restore Habitats at Appropriate Elevations

Is the covered action consistent with this regulatory policy? [Appendix 3](#) and [Appendix 4](#) are referenced in this regulatory policy.

☒ YES

☐ NO

☐ N/A

Answer Justification:

California WaterFix is consistent with Delta Plan Policy ER P2 (23 CCR Section 5006), Restore Habitats at Appropriate Elevations, because California WaterFix's habitat restoration actions (Environmental Commitments 3, 4, 6, 7, 8, 9, and 10) will be carried out consistent with Delta Plan ER P2 Appendix 3 and Appendix 4. Specific locations for implementing the Environmental Commitments and the necessary property interests may not have been identified at this time, let alone acquired, and therefore it is not possible to document the elevation being proposed for each specific habitat restoration site. See attached for detailed findings. [Final ER P2 \(23 CCR Section 5006\) Restore Habitats at Appropriate Elevations 7 27 18.pdf](#)

ER P3 / 23 CCR SECTION 5007 - Protect Opportunities to Restore Habitat

Is the covered action consistent with this regulatory policy? [Appendix 4](#) and [Appendix 5](#) are referenced in this regulatory policy.

☒ YES ☐ NO ☐ N/A

Answer Justification: California WaterFix is consistent with Delta Plan Policy ER P3 (23 CCR Section 5007), Protect Opportunities to Restore Habitat because California WaterFix does not create significant adverse impacts to the opportunity to restore habitat as described in ER P3. All temporary project features sited in a Priority Habitat Restoration Area (PHRA) will be returned to previous conditions after construction is complete and will not result in a significant adverse impact to the opportunity to restore habitat. Where permanent features are sited in a PHRA they are sited at the edge of the PHRA, represent a small acreage impact to the opportunity to restore habitat in comparison to the overall size of the PHRA and do not result in a significant adverse impact to the opportunity to restore habitat. See attached for detailed findings. [Final ER P3 \(23 CCR Section 5007\) Protect Opportunities to Restore Habitat 7 27 18.pdf](#)

ER P4 / 23 CCR SECTION 5008 - Expand Floodplains and Riparian Habitats in Levee Projects

Is the covered action consistent with this regulatory policy? [Appendix 8](#) is referenced in this regulatory policy.

☒ YES ☐ NO ☐ N/A

Answer Justification: California WaterFix is not a levee project, but rather a water conveyance infrastructure project. Nevertheless, California WaterFix is consistent with Delta Plan Policy ER P4 (23 CCR Section 5008), Expand Floodplains and Riparian Habitats in Levee Projects, because DWR evaluated the feasibility of setback levees and other measures that could increase floodplains and riparian habitats at locations where it will reinforce existing levees at the new intake locations along the Sacramento River. Although California WaterFix is not a levee project, it will require alterations of levee sections that are part of the Sacramento River Flood Control project, which is among the areas included in Delta Plan ER P4 Appendix 8. The analysis for California WaterFix evaluated and determined that there were no feasible alternatives that would increase floodplains and riparian habitat on the levees it would be affecting for conveyance facility construction because the new intakes must be adjacent to the Sacramento River. Structures that require contact with water cannot feasibly be set back from levees. Evaluation of the feasibility of setback levees as part of the preliminary engineering analysis for the Draft EIR/EIS is described in the attached detailed findings. [Final ER P4 \(23 CCR Section 5008\) Expand Floodplains and Riparian Habitats in Levee Projects 7 27 18.pdf](#)

ER P5 / 23 CCR SECTION 5009 - Avoid Introductions of and Habitat for Invasive Nonnative Species

Is the covered action consistent with this regulatory policy?

☒ YES ☐ NO ☐ N/A

Answer Justification: California WaterFix is consistent with Delta Plan Policy ER P5 (23 CCR Section 5009), Avoid Introductions of and Habitat Improvements for Invasive Nonnative Species. Implementation of conveyance facility construction and some of California WaterFix's habitat restoration actions (Environmental Commitments 3, 4, 6, 7, 8, 9, and 10) could potentially open new habitat to nonnative invasive species that are already present in the Delta environment. However, California WaterFix Environmental Commitments, Avoidance and Minimization Measures, Mitigation Measures, permit requirements, habitat restoration adaptive management actions, and Department-wide invasive species programs demonstrate that DWR has fully considered and avoided new introductions of or improved habitat conditions for nonnative invasive species occurring from habitat restoration consistent with ER P5(a). See attached for detailed findings. [Final ER P5 \(23 CCR Section 5009\) Avoid Introductions of and Habitat Improvements for Invasive Nonnative Species 7 27 18.pdf](#)

DELTA PLAN CHAPTER 5

DP P1 / 23 CCR SECTION 5010 - Locate New Urban Development Wisely

Is the covered action consistent with this regulatory policy? [Appendix 6](#) and [Appendix 7](#) are referenced in this regulatory policy.

☐ YES ☐ NO ☒ N/A

Delta Plan Policy DP P1 (23 CCR Section 5010), Locate New Urban Development Wisely, is not applicable to California WaterFix because California WaterFix involves constructing new water conveyance facilities and does not involve new residential, commercial, or industrial development as described in DP P1. See attached for detailed findings. [Final_DP P1 \(23 CCR Section 5010\) Locate New Urban Development Wisely 7 27 18.pdf](#)

DP P2 / 23 CCR SECTION 5011 - Respect Local Land Use When Siting Water or Flood Facilities or Restoring Habitats

Is the covered action consistent with this regulatory policy?

☒ YES

☐ NO

☐ N/A

California WaterFix is consistent with Delta Plan Policy DP P2 (23 CCR Section 5011), Respect Local Land Use When Siting Water or Flood Facilities or Restoration Habitats. The California WaterFix water management facilities have, to the extent feasible, been “sited to avoid or reduce conflicts” with land uses in the Delta, including those in city and county general plans for their jurisdictions or spheres of influence when feasible. Over a substantial period of time, DWR has gone to considerable lengths to minimize conflicts with adjacent land uses. Throughout the process of developing the various project alternatives that have been evaluated and considered in remarkable detail, thoroughly recorded and discussed in environmental documents from 2012, DWR has decreased and/or moved project facility footprints to reduce impacts to existing uses and the environment, considering comments received from local agencies, the Delta Protection Commission and the Delta Stewardship Council. Site locations for ecosystem restoration are not yet determined but will consider sites on existing public lands, when feasible and consistent with a project’s purpose, before privately-owned sites are purchased and will consider measures to mitigate conflicts with adjacent uses that may include, but are not limited to, buffers to prevent adverse effects on adjacent farmland. The decision to move forward with California WaterFix (Alternative 4A) in the 2017 DWR Approval and CEQA Notice of Determination firmly signifies DWR’s commitment to implement a project that is designed to meet the recognized goal of improving the reliability of water conveyance through the Delta, and help support the Delta Stewardship Council in its efforts to effect water supply reliability and ecosystem restoration in a manner that protects and enhances the Delta as an evolving place. To minimize impacts on the environment and Delta communities, California WaterFix is designed to utilize underground tunnels rather than surface canals, realign the tunnels and certain reusable tunnel material stockpiling sites to prioritize use of public lands over private lands, reduce the size and location of the intermediate forebay, and reconfigured the three intakes to eliminate three pumping stations in the north Delta to a single pumping facility in the south Delta adjacent to Clifton Court Forebay. See attached for detailed findings. [Final_DP P2 \(23 CCR Section 5011\) Respect Local Land 7 27 18.pdf](#)

DELTA PLAN CHAPTER 7

RR P1 - Prioritization of State Investments in Delta Levees and Risk Reduction

Is the covered action consistent with this regulatory policy?

☒ YES

☐ NO

☐ N/A

Answer Justification:

California WaterFix is consistent with Delta Plan Policy RR P1 (23 CCR Section 5012), Prioritization of State Investments in Delta Levees and Risk Reduction. RR P1 outlines interim priorities for discretionary state investments in Delta flood risk management, including levee operations, maintenance, and improvements. California WaterFix is not a flood risk management project. California WaterFix includes actions such as levee modifications to ensure that there will be no change in flood risk as a result of the project, but the project objectives do not include reducing or managing Delta flood risk. California WaterFix will not be funded by programs designed to improve Delta flood risk flood management, but instead will be funded by participating water contractors to fulfill the project objectives described in the Final EIR/EIS, Chapter 2, Project Objectives and Purpose and Need. The fundamental purpose of California WaterFix is to make physical and operational improvements to the State Water Project (SWP) system in the Delta necessary to restore and protect ecosystem health, water supplies of the SWP and Central Valley Project (CVP) south of the Delta, and water quality within a stable regulatory framework, consistent with statutory and contractual obligations (Final EIR/EIS, Chapter 2). One of the objectives of the project is to make physical improvements to the conveyance system that will minimize the potential for public health and safety impacts resulting from a major earthquake that causes breaching of Delta levees and the inundation of brackish water into the areas in which the SWP and CVP pumping plants operate in the southern Delta (Final EIR/EIS, Section 2.3). The proposed new water conveyance facilities would be designed to withstand earthquake induced ground shaking and to meet all relevant codes and standards to ensure risk of conveyance facility failure from a seismic event is minimized (Final EIR/EIS, Volume II, Master Response 16). Another objective is to make physical improvements to the conveyance system in anticipation of rising sea levels and other reasonably foreseeable consequences of climate change. (Ibid.) These objectives are different from the goals described in the RR P1 Table above, including Goal 1 regarding the Levee Network that are intended to protect water quality and water supply conveyance in the Delta, especially levees that protect freshwater aqueducts and the primary channels that carry fresh water through the Delta. As such, California WaterFix is not a flood risk management project subject to the interim priorities for discretionary state investments in Delta flood risk management. The levee modifications associated with California WaterFix are described and a discussion considering the priorities listed in the RR P1 Table is included in the attached detailed findings. This discussion clarifies that California WaterFix will not adversely affect any flood risk management programs related to the Delta. See attached for detailed findings. [Final RR P1 \(23 CCR Section 5012\) Prioritization State Investments 7 27 18.pdf](#)

[RR P2](#) - Require Flood Protection for Residential Development in Rural Areas.

Is the covered action consistent with this regulatory policy? [Appendix 7](#) is referenced in this regulatory policy.

☐ YES

☐ NO

☒ N/A

Answer Justification:

Delta Plan Policy RR P2 (23 CCR Section 5013), Require Flood Protection for Residential Development in Rural Areas, is not applicable to California WaterFix. California WaterFix is a state and federal government project which involves constructing new water conveyance facilities and is not new residential development of five or more parcels as described in RR P2. See attached for detailed findings. [Final RR P2 \(23 CCR Section 5013\) Require Flood Protection for Residential Development in Rural Areas 7 27 18.pdf](#)

[RR P3](#) - Protect Floodways

Is the covered action consistent with this regulatory policy?

☒ YES

☐ NO

☐ N/A

Answer Justification:

California WaterFix is consistent with Delta Plan Policy RR P3 (23 CCR Section 5014), Protect Floodways. RR P3(b) clarifies that this policy applies only to a proposed action encroaching in an unregulated floodway. Actions in regulated floodways or regulated streams are subject to regulation by state and federal entities. As indicated in Table RR P3 and Map Figure RR P3 (of the attached detailed findings), with the exception of specific temporary barge unloading facilities, California WaterFix primary water conveyance facilities and related construction features will be constructed along regulated streams, and are thus subject to regulation by state and federal entities, or will be constructed off-stream. Therefore, with the exception of specific temporary barge unloading facilities, RR P3 will not apply to California WaterFix primary water conveyance facilities and related construction features. Some temporary barge unloading facilities will be constructed on floodways that are not either a designated floodway or regulated stream (see RR P3 Attachment 1). However, this will not result in an increase in exposure of people or structures to flooding due to construction of the temporary barge unloading facilities because facilities affecting levees will be required to comply with the local reclamation districts that have jurisdiction over the particular site and DWR requirements to avoid increased flood potential and levee failure due to the construction and operation of the project. DWR will consult with the local reclamation districts to ensure that the construction activities will not conflict with the reclamation districts flood protection measures. See attached for detailed findings. [Final_RR P3 \(23 CCR Section 5014\) Protect Floodways_7_27_18.pdf](#)

RR P4 - Floodplain Protection

Is the covered action consistent with this regulatory policy?



YES



NO



N/A

Answer Justification:

California WaterFix is consistent with Delta Plan Policy RR P4 (23 CCR Section 5015), Floodplain Protection. As shown in Table RR P4 and Map Figure RR P4 (of the attached detailed findings), California WaterFix conveyance facilities and related construction features will not be sited in the Yolo Bypass (RR P4, (a)(1)) or the Lower San Joaquin River Floodplain Bypass area (RR P4, (a)(3)). One temporary safe haven work area is presently sited on McCormack-Williamson Tract within the area defined by the North Delta Flood Control and Ecosystem Restoration Project (North Delta FCERP) (RR P4, (a)(2)). However, the location of the safe haven work areas in the Final EIR/EIS are preliminary and the location will be moved to a location outside of the North Delta FCERP, if feasible. If it is determined necessary to locate a safe haven work area in the North Delta FCERP, it will be temporary and will, as discussed in the floodplain values and functions section of the detailed findings, not have a significant adverse impact on floodplain values and functions as set forth in 33 Code of Federal Regulations section 320.4(l)(1). See attached for detailed findings. [Final_RR P4 \(23 CCR Section5015\) Floodplain Protection_7_27_18.pdf](#)